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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,315	12/27/2000	Joseph L. Desormeaux JR.	41EB-1061	6152

7590 03/16/2004

John S. Beulick  
Armstrong Teasdale LLP  
Suite 2600  
One Metropolitan Sq.  
St. Louis, MO 63102

EXAMINER
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GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/749,315

Applicant(s)

DESORMEAUX ET AL.

Examiner

Yogesh C Garg

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 22-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14 and 22-32, drawn to a method and system for on-line gathering information concerning attributes of product classified in class 705, subclass 26.
  - II. Claims 15-21, drawn to a method for on-line soliciting information from users and polling the users to determine relative importance of the attributes of the products, classified in class 705, subclass 12.
2. The inventions are distinct, each from the other because: The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Invention I cannot be used to practice Invention II because it does not include elements to solicit users and poll them to determine the relative importance of the attributes of the products and as such the invention II can be practiced by another materially different apparatus.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with the applicant's attorney Mr. Robert Reeser on 3/9/2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-14 and 22-32. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-14 and 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation, "A method in accordance with Claim 2 wherein the information comprises at least one of a desired attribute, ease-of-use, performance characteristics, and time to market.". Claim 2 recites the step of displaying information on a remote device and as such a dependency of claim 2 should further limit the claimed manipulative step of displaying information. Instead, the claim 5 recites a limitation describing the information, which, is not the claimed manipulative step in claim 2. Therefore, claim 5 is rendered indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. If displaying information step of claim 2 needs to be limited then claim 5 must have recited a manipulative step making or using the information, which is not so in the presently recited claims. Similar discrepancies exist in claims 6-11 and 13-14. See MPEP 2116 Material Manipulated in Process....."Interpreting the claimed invention as

a whole requires consideration of all claim limitations. Thus, proper claim construction requires treating language in a process claim which recites the making or using of a nonobvious product as a material limitation”.

Claim 12 recite the limitation, “the product specification information”. There is insufficient antecedent basis for this limitation in the independent claim 1. As best understood by the examiner this limitation will be interpreted only as “information”.

Claim 13 recites the limitation, “between features and customer-requested attributes”. There is insufficient antecedent basis for this limitation in the independent claim 1. Since claim 14 is a dependency of claim 13 it also inherits the same deficiency and is rejected on the basis of same rational. Either claim 1 or claim 13 needs to be amended to further treat claims 13-14 on merits.

Claim 25 recites the limitation, “ A method in accordance with Claim 22 wherein the information comprises information regarding a user “. Claim 22 is a system claim reciting elements for gathering information. Therefore dependency of claim 22 must further limit the structural elements of claim 22. Instead, claim 25 further limits the term “information “ which is not a structural element. In order to have further limited “information” in claim 25 the term “information” must have been a functionally integral part of one of the structural elements in claim 22, such as “information stored in a memory with executable instructions”. Claims 24 and 26-28 are also rejected based on the same rational.

Claims 26 and 28 recite the limitation, “the relative importance of the information”. There is insufficient antecedent basis for this limitation in the independent claim 22.

Claim 27 recites the limitation, “wherein the votes” . There is insufficient antecedent basis for this limitation in the independent claim 22.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-8, 12, 22-25, 29, and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosin et al. (US Patent 6,028,600); hereinafter referred to as Rosin.

Regarding claim I, Rosin discloses a method for gathering information concerning attributes of a product through use of a network-based system including a server and at least one device connected to the server via a network (see at least col.3, lines 24-28, col.6, line 63-col.7, line 6)said method comprising the steps of:

receiving information concerning the product from a user via the device (see at least col.13, lines 22-33, "***An intelligent agent on the POP server can monitor the identifying attributes of the preselected linked web pages provided by the server. ... The agent will record the attributes of previously visited web sites from the guide page containing the links provided by the server. The intelligent agent can identify subject areas of interest for the user based on the past viewing and browsing habits of the client user in order to determine the user's preferences for the selected topics provided in the templates***". Note: In Rosin, client device corresponds to the device and recording the information about the user's visits to websites corresponds to receiving information from the device.);

compiling the received information (*The agent preferably searches through a **database** of web links which have been **compiled by the service to present to the user through the guide page in the graphical user interface.** );*

down-selecting the received information and displaying the down-selected information relating to the product to the users (see at least col.7, lines 40-48, "*The selections of topics and links can be viewed as a series of sequences. For example, a first set of selected topics are displayed on the screen for the client user. One or a plurality of topics in a subset of the first set of topics is selectively highlighted in a first sequential order. For example, as illustrated in FIGS. 5 and 6, each succeeding displayed topic would be highlighted in descending order, and then the sequence would begin again at the top of the column of topics.*" . Note: In rosin, topic corresponds to the information related to a product which is selected from a number of choices and the same information is displayed to the users. Down-selecting is considered as making a choice out of a number of available options. The applicant has not given any specific definition for the term "downs- select " and as of a number of available options).

Regarding claim 2, Rosin discloses a method in accordance with Claim 1 wherein said step of displaying information is performed on a device physically remote from the server (see FIG.1, col.4, lines13-24, col.5, lines 63 which demonstrate a client server system and the client device is physically remote from the server. The display is done on the client device.).

Regarding claim 3, Rosin discloses method in accordance with Claim 2 wherein said step of receiving information is performed on a first device in a first room, and wherein said step of displaying information is performed on a second device in a second room (see at least col.1, lines 1-58, which teaches the notoriously well-known practice of web surfing enabling the users

with the help of client browsers to access a server and communicate interactively and therefore any number of users in any number of rooms can receive same information).

Regarding claim 4, Rosin teaches a method in accordance with Claim 1 wherein said step of receiving information comprises the step of receiving information pertaining to features selected by the user (see at least col.6, line 64-col.7, line 6, "*The templates can be part of specific gateway interfaces tailored for specific user profiles. For example, the user may initially be required to select a general, preferably demographically-based, profile which may provide preselected web links in a predetermined set of categories. The particular graphical interface in which these links are presented to the user can also be selected based upon the experience level and the amount of interactivity desired by the user, which may also be automatically modified over time by an agent to fit the experience level of the user..*")

Regarding claims 5-8, Rosin teaches that the information further comprises one of a desired attribute, ease-of-use, performance characteristics, and time to market (see at least col.3, lines 24-28. Note: In response to the query from the server the client's reply will include the ease of use information regarding the delivery data stream connection) , or a customer-requested feature of the product or a specification for the product or information regarding a user (see at least col.6, lines 18-37, col.6, line 64-col.7, line 6, which describes that the information received includes requested features and specifications of the products such as relating to news, sports, etc., information about the user such as his profile).

Regarding claim12, Rosin discloses a method in accordance with Claim 1 further comprising the step of receiving information from the user via a graphical user interface (see at



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least col.5, lines 64-66, " displayed in the graphical user interface {GUI} or front-end of the client...").

Regarding system claims 22-25 and 29, their limitations are closely parallel to the limitations of method claims 1, 4-6 and 12 are therefore, analyzed and rejected on the same basis.

Regarding claims 31 and 32, Rosin teaches that the said server and device are connected via a network, which is one of a wide area network or a local area network or Internet (see at least col.2, lines 58-62, " *Means for displaying an **internet** gateway interface* .....").

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 9-11 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosin and further in view of Horvitz et al. (US Patent 6,655,963 B1), hereinafter, referred to as Horvitz.

Regarding claims 9-11, Rosin teaches a method of gathering information concerning the attributes of the products as analyzed and discussed above in claim 1. Rosin does not disclose that the information includes votes from users on the relative importance of the information, tabulating the votes; and displaying the tabulated votes to the user and utilizing the information and the relative importance of the information to generate a matrix (see Horvitz at least col.9, line 5-col.11, line 63, "*Briefly stated, the front end device (or client) 110 may be used to gather implicit or explicit attribute values (e.g., item ratings) and to present recommendations or predictions* ..... *FIG. 2 illustrates an exemplary table data structure that may be used to store entity (e.g., user) records containing attribute (e.g., item) values (e.g., ratings).* ..... *Note that the following description can be generalized to predict (rather than recommend) any value (rather than a rating) of any attribute (rather than an item) associated with any entity (rather than a user). The number of users is denoted by "n", the set of all titles or items is denoted by "T", and "m" (= .vertline.T.vertline.) denotes the total number of titles or items in the set T. The n-by-m matrix of all user's ratings of all titles or items is denoted by "R".* ". Note: In Horvitz, attribute values corresponds to votes received from the users on the relative importance of the information (see col.2, line 47-col3, line 23) . In view of Horvitz, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Rosin to incorporate the features of

receiving votes from users on the relative importance of the information, tabulating the votes; and displaying the tabulated votes to the user and utilizing the information and the relative importance of the information to generate a matrix because this would help the Rosin's method and system for gathering attribute values (user's votes) and then use the same for predicting and recommending items such as Television channels or Internet content/web pages.

Regarding system claims 26-28, their limitations are closely parallel to the limitations of method claims 9-11 are therefore, analyzed and rejected on the same basis.

10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosin and further in view of view of O'Neil et al. (US Patent 6,128,279), hereinafter, referred to O'Neal.

Regarding claim 30, Rosin teaches a system consisting of a device and a server connected to the device for gathering information concerning the attributes of the products as analyzed and discussed above in claim 1 and 22 above. Rosin does not disclose that the said device is configured to be as server for a network of customer devices. However, in the same field of endeavor for system balancing loads among network servers, O'Neal teaches that the said device is configured to be as server for a network of customer devices (see at least col. line 66-col.2, line 11, "*....., some vendors have introduced dedicated load balancing hardware devices into their systems. One such system includes a device, called a proxy gateway, which receives all network requests and routes those requests to appropriate Web servers. In particular, the proxy gateway queries the servers to determine their respective loads and distributes network requests accordingly. Responses from the servers are routed back to the network through the proxy gateway. Unlike the DNS-based schemes, all requests resolve to the IP address of the proxy server, thereby avoiding the risk that remote DNS caching or failed servers will inadvertently thwart access to the site.*")

" . Note: in O'Neal the device proxy gateway refers to the claimed server which is configured as a server for a network of customer devices. In view of O'Neal, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to have modified Rosin to incorporate the feature that the said device is configured to be as server for a network of customer devices because it would help the rosin's system to balance the excessive load from client devices and provide redundancy incase of sever failures as explicitly suggested in O'Neal.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) WO 98/33135 to Chislenko et al. and EP 0 751471 A1 to Lashkari et al. discloses a method and apparatus for item recommendation and collaborative filtering (see at least abstract).

(ii) US 2003/0089218 A1 to Gang et al. (see at least abstract) , US 2001/0021914 A1 to Jacobi et al. (see at least abstract), US Patent 6, 049,777 to Sheen et al. (see at least abstract), US Patent 6,064,980 to Jacobi et al. (see at least abstract) teach item recommendations and collaborative filtering.

(iv) US 2002/0052873 A1 to Delgado et al. teaches a system and method for obtaining user's preferences and then provide recommendations for goods and services.

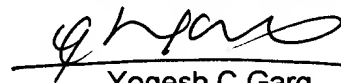
(v) Dean et al.; « Super News : Multiple feeds for multiple views » ; IBM system Journal ; Armonk; 2000 Vol.39, Iss ¾; pg.633, 13 pgs extracted on Internet from <http://proquest.umi.com> on 03/10/2004 teaches item recommendations and collaborative filtering (see page 10).

(vi) Wieffering.; « A personal shopping assistant online 'Smart' filters figure out what you like or dislike;{Metro Edition}; Star Tribune; Minneapolis; Minn., Dec 22, 1999; pg,24.A » ; extracted on Internet from [http:// proquest.umi.com](http://proquest.umi.com) on 03/10/2004 teaches rating of items on a scale of 1 to 5 and collaborative filtering (see page 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yogesh C Garg  
Examiner  
Art Unit 3625

YCG  
March 10, 2004